

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.

Plaintiffs,

v.

TYSON FOODS, INC., et al.

Defendants.

Case No. 4:05-cv-00329-GRP-SAJ

Declaration of Dr. Alex Horne

The undersigned, Alex Horne, does hereby declare:

1. I received a PhD in Limnology & Oceanography from the University of Dundee, Scotland, in 1969. I earned a bachelor degree in biological chemistry from the University of Bristol, England, in 1964. I have published over 750 articles, reports, and publications related to my fields of study.
2. In 2003, I retired from the University of California at Berkeley where I was a Professor of Ecological Engineering in the Department of Civil & Environmental Engineering for 32 years.
3. I have been retained by the Defendants in this case to perform investigations regarding water quality issues in the Illinois River Watershed (IRW) and the influences of land use on water quality in this watershed.
4. A number of the expert reports submitted by the Plaintiffs in this case relate to my areas of work. I have begun my work by reviewing the expert reports produced by Barton Fisher, Megan Smith, Scott Wells, and Eugene Welch and Dennis Cooke.
5. The next stage of my work will be reviewing the assumptions and sources relied on by the Plaintiffs' experts relevant to my areas of expertise. It is important to ensure that conclusions have been reached by considering the entire relevant body of learning, and not by selectively culled reports and portions of reports that favor a predetermined conclusion. I have begun this work, and will proceed diligently with doing so.
6. In order to respond to Plaintiffs' reports' comprehensively, it is appropriate for me to examine the waters in question in person after having reviewed Plaintiffs' experts' specific scientific assertions. When examining algae and related water quality parameters, a key time is late summer and fall, when water quality problems often reach

their peak. I therefore, I would be optimal for me to be able to study the waters at issue and compare them with the assertions of Plaintiffs' experts in September and October.

7. However, before I can complete my work it will be necessary for me to have access to the conclusions reached by Dr. Victor Bierman during his review of Plaintiffs' computer models. These models attempt to identify the relative contributions of various constituents to the IRW, and to assess their fate and transport within the system. A number of plaintiffs' experts' conclusions appear to be based in part on the conclusions provided by Plaintiffs' models. Before I can address those conclusions, and before I can discuss with confidence the effects of the constituents addressed in Plaintiffs' models, I must first allow Dr. Bierman to complete his review of the models themselves. Plaintiffs' expert, Dr. Welch, explained this same need to the Court recently when he noted that his work "is dependent upon the results of certain environmental modeling which is being conducted by Dr. Scott Wells." Affidavit of Eugene B. Welch (May 11, 2008). So too is my work dependent on Dr. Bierman's review of Dr. Wall's and Dr. Engel's modeling work.

8. I will work diligently to accomplish as much as possible while Dr. Bierman is completing his work. That way I can complete those portions of my analyses that are not dependent on understanding the intricacies of Plaintiffs' models. In my professional experience and best judgment, assuming diligent efforts, I am confident that I can complete my work within 30 days of Dr. Bierman completing his review of Plaintiffs' models.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 2008



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